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PROSPECTIVE JUROR: Yes.

MR. KEAHON: Ma'am?

PROSPECTIVE JUROR: Yes.

PROSPECTIVE JUROR: (Nod of head.)

PROSPECTIVE JUROR: (Nod of head.)

PROSPECTIVE JUROR: (Nod of head.)

MR. KEAHON: I promise you that if you are selected, this being probably the first criminal case any of you have sat on, you will be very proud of the experience, and twelve jurors do come up with a great decision, you won't make a mistake.

Thank you very much.

THE COURT: Thank you, Mr. Keahon.

The jury will be given a brief recess.

Remember my admonitions which I am required to give you at this time.

To keep an open mind. Not to form or express any opinion about this case until it is finally submitted to you for your deliberations.

You may not discuss this case among yourselves or with anybody else or allow it to be discussed in your presence.

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You are not to read or listen to any accounts of the case that may be reported by any news media, on the Internet.

And promptly report to the Court any incident involving an attempt to contact or influence any member of this jury.

Thank you once again for your hard work. If you follow the officers' instruction.

MR. KEAHON: Can they just remain seated for a minute, just so I can look at them and make some decisions for a minute or two?

THE COURT: Yes, counsel.

MR. KEAHON: Thank you.

Thank you, Judge.

THE COURT: Thank you once again.

We will bring you back as soon as we can.

(Whereupon prospective jurors leaving courtroom.)

THE COURT: Please be seated.

You will take a moment to go over your notes and as soon as you are ready, inform the Court, we will do the challenges.

(Whereupon Mr. Keahon conferring with

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defendant.)

(Whereupon Mr. Pearl conferring with
Ms. Franzese.)

MR. KEAHON: I am ready, Judge.

THE COURT: Are the People ready to
proceed as well?

MR. PEARL: Yes.

THE COURT: All right.

Beginning with potential juror number
one, Miss Price, and ending with prospective
juror number twelve, Mr. Calleja, do we have any
challenges for cause People?

MR. PEARL: For cause, no, thank you,
Your Honor.

THE COURT: Any challenges for cause
defense?

MR. KEAHON: Yes, Judge.

Mr. Farmer.

THE COURT: I will hear you, People.

MR. PEARL: Judge, you know, he
indicated he can be fair and impartial, the last
question I asked him in chambers. I don't see
anything that Mr. Keahon brought out of him
during the voir dire.

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2 It is my position that he indicated
3 he can be fair and impartial, his prior
4 experience wouldn't effect him.

5 I would oppose the cause for
6 challenge.

7 MR. KEAHON: Your Honor, he never
8 changed his opinion from the room to out here.

9 THE COURT: Thank you.

10 The challenge for cause will be
11 allowed.

12 The People's exception noted.

13 Any other challenges for cause,
14 defense?

15 MR. KEAHON: No, Your Honor.

16 THE COURT: Are there any peremptory
17 challenges, People?

18 MR. PEARL: Yes, Your Honor.

19 Two.

20 THE CLERK: Can we use name and
21 number, please, counsel.

22 MR. PEARL: Number two, Lillian
23 Laguerra.

24 Number five, Fred Castro. Number
25 ten, Felicia Crawford.

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2 And that is -- those are the three
3 peremptories.

4 THE COURT: Are there any peremptory
5 challenges, defense?

6 MR. KEAHON: Yes, Judge but there
7 are-- I believe in that group there were only
8 two blacks on the entire group that was brought
9 up. I don't know how many there were, a hundred
10 and some odd.

11 Actually, I think there was an
12 additional black who excused themselves for
13 whatever reason when you gave the initial
14 instructions.

15 Certainly, the District Attorney's
16 Office has no problem with Miss Price because
17 she is a Corrections Officer but I don't think
18 there is any valid reason for Miss Crawford.

19 My client is black. Out of the
20 entire, in excess of a hundred, I believe there
21 were only three blacks and one which excused
22 themselves. That left two. Both are on the
23 group we are inquiring on and the District
24 Attorney has challenged one.

25 So I would like to note the reasons

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2 for that.

3 THE COURT: Pursuant to Batson
4 versus Kentucky, at this time I will not ask the
5 People to respond until a pattern has been
6 established. They are not under an obligation.

7 You have discharged your obligation
8 Mr. Keahon, by noting the race of the challenged
9 juror, Miss Crawford. And if there was a
10 pattern I will ask the People to respond. At
11 that time you can renew your application.

12 MR. KEAHON: With respect to this
13 group there can't be a pattern because we are at
14 the end of it but thank you.

15 THE COURT: All right.

16 Are there any peremptory challenges,
17 defense?

18 MR. KEAHON: Yes, Your Honor.

19 Miss Roddy, number three.

20 MR. KEAHON: Mr. Martino. I guess
21 that is number four.

22 Number six, I think it is
23 Mr. Zakrewshi.

24 Dom, did I pronounce it right?

25 THE COURT: Zakrewshi. Zakrewshi.

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MR. KEAHON: Uh-huh.

Juror, I think it is, C-A-R-E-G-A.

THE COURT: Calleja.

MR. KEAHON: Yes.

THE COURT: The last juror, number twelve that you are challenging?

MR. KEAHON: Yes.

And --

THE COURT: Well, we haven't gone beyond that. Right now we are stopping at the original group of twelve.

MR. KEAHON: If I may, Judge.

Okay. That is fine. Thank you.

THE COURT: All right.

Then that leaves Miss Price as juror number one. Mr. Stingley as juror number two. Miss Roehrig is number three. And Miss Desner is number four.

Turning then to Mr. Vannostrand and Mr. Moir, prospective jurors sixteen and seventeen, is there any challenge for cause, People?

MR. PEARL: No challenges, Your Honor.

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THE COURT: Any challenges, defense?

MR. KEAHON: No, Your Honor.

THE COURT: Perempt, People?

MR. PEARL: No, Your Honor.

THE COURT: Perempt, defense?

MR. KEAHON: Yes.

Mr. Moir.

Je ne se qua.

THE COURT: I believe the defense has used five. People, the People three.

MR. PEARL: That is correct.

THE COURT: Mr. Vannostrand will be--

MR. PEARL: Just briefly, my understanding is the defense has challenged Mr. Martino, Mr. Zakrewshi, Mr. Calleja, and now Mr. Moir.

THE COURT: Yes.

MR. PEARL: Four Caucasian males.

THE CLERK: He also challenged Miss Roddy.

MR. PEARL: But four Caucasian males. All males, no women.

Judge, at this time the People are making a Batson challenge.

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2 THE COURT: Having established a
3 pattern, if you would be so kind, Mr. Keahon, as
4 to state a nondiscriminatory reason for your
5 challenges.

6 MR. KEAHON: Well, number one, half,
7 more than half the group that we have had were
8 white male Caucasians. Number two, I
9 challenged, my first challenge was Miss Roddy,
10 she is a female.

11 THE COURT: Right.

12 MR. KEAHON: Mr. Martino's sister is
13 on the New York PD and had numerous friends that
14 he said were on the PD.

15 THE COURT: That is more than
16 sufficient. That is more than sufficient.

17 We have to go juror by juror. If you
18 would be so kind, just for the record, in terms
19 of Mr. Zakrewshi.

20 MR. KEAHON: Mr. Zakrewshi, his
21 father-in-law is on the New York City PD.

22 THE COURT: Thank you.

23 MR. KEAHON: His brother-in-law is an
24 officer.

25 THE COURT: That is sufficient.

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2 MR. KEAHON: Uh-- Mr. Farmer was for
3 cause.

4 THE COURT: Mr. Calleja.

5 MR. KEAHON: I didn't like him. I
6 thought he was a wise guy. When we talked in
7 chambers he was very quick. Just something
8 about him I didn't like.

9 THE COURT: That is sufficient.

10 Turning to Mr. Moir.

11 MR. KEAHON: He said two of his best
12 friends were Nassau PD.

13 THE COURT: You have discharged your
14 obligation under Batson. Thank you.

15 MR. KEAHON: Thank you.

16 THE COURT: All right.

17 Then Mr. Vannostrand will be juror
18 number five. We will bring in our jury. We
19 will discharge the ones who have not been
20 selected, with the thanks of the Court. We will
21 swear our five and tell them to come back on
22 Wednesday at 2 pm.

23 MR. KEAHON: Great.

24 THE COURT: Thank you.

25 MR. KEAHON: And can we take a break?

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2 THE COURT: Yes.

3 (Whereupon prospective jurors
4 entering courtroom.)

5 THE COURT: Thank you. Please be
6 seated everyone.

7 THE CLERK: Case on trial, People
8 versus Whitehead. Prospective jurors, all
9 parties present.

10 THE COURT: Thank you.

11 Ladies and gentlemen of the jury,
12 some of you have been selected to serve as
13 jurors in this case and some have been
14 discharged. The fact you are not selected for
15 this jury is no reflection on your intelligence,
16 integrity or patriotism. All have been amply
17 demonstrated before this Court.

18 Those of you not selected, you are
19 discharged with the thanks of the Court without
20 any further duty.

21 THE CLERK: The following jurors
22 please remain seated, the rest are excused with
23 the thanks of the Court, please report back
24 downstairs, Central Jury.

25 Remain seated, Lavern Price, Ronald

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Stingley, MaryBeth Roehrig, Leona Desner, and
Robert Vannostrand.

The rest are excused. Thank you.

(Whereupon prospective jurors leaving
courtroom.)

THE COURT: Thank you once again.

If counsel will remain standing for a
moment.

Mr. Avitable.

THE CLERK: Remaining jurors please
stand and raise your right hand.

Do each of you solemnly swear that
you will truly try this case, render a true
verdict according to the evidence and the charge
of the Court, so help you God?

SELECTED JURORS: I do.

THE CLERK: Please be seated.

Miss Price, you are juror number one.

Mr. Stingley your are juror number two.

Miss Roehrig, you are juror number three.

Miss Desner you are juror number four.

Mr. Vannostrand, you are juror number five.

THE COURT: Thank you once again.
You can tell the jury selection process is a

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2 rather lengthy one. There is an old saying, the
3 wheels of justice turn slowly but they grind
4 exceedingly fine.

5 The process will continue. Rather
6 than have you come back day after day, I will
7 discharge you, direct you to come back the day
8 we hope the jury will be fully constituted, you
9 can begin to hear evidence rather than you have
10 to wait in the jury room. That date is next
11 Wednesday, 2 pm.

12 Jury selection will continue on
13 Monday. Hopefully, the jury will be fully
14 selected on that date. I will give you further
15 instructions on the law on Wednesday before you
16 undertake your duties.

17 Once again, the law requires me to
18 instruct you as far as your duties between now
19 and then. And I know we all know them by heart
20 together.

21 First of all, to keep an open mind,
22 not to form or express any opinion until this
23 case is finally submitted for your
24 deliberations.

25 You may not discuss this case or any

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2 matter connected with the trial or anyone else,
3 not even members of your family, allow it to be
4 discussed in your presence.

5 You are not to read or listen to any
6 accounts or discussions of the case that may be
7 reported by the news media, on the Internet.

8 You may not visit the place or places
9 where the offenses charged were allegedly
10 committed or any other premises discussed during
11 the course of this trial.

12 You must promptly report to the Court
13 any incident within your knowledge involving an
14 attempt by any person to contact or influence
15 any member of this jury.

16 You may not discuss with any person
17 the receiving or accepting of any payment or
18 benefit in consideration for supplying any
19 information concerning this trial.

20 Given the length of this trial you
21 will be allowed to take notes. I will give you
22 special instructions on the manner of note
23 taking and you will be provided with notebooks
24 by the Court. You are not to take your own
25 notes because the notebooks will be collected at

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2 the end of the day. And I must give you
3 specific instructions immediately prior to
4 opening statement as to the manner in which the
5 notes will be taken.

6 Having that in mind and thanking you
7 once again for your hard work and your patience
8 over the next few weeks, you will be discharged
9 for the day, with the thanks of the Court and I
10 will see you next Wednesday at 2 pm. Thank you.

11 THE SERGEANT: Step this way jurors,
12 follow me.

13 (Whereupon five selected jurors
14 leaving courtroom.)

15 THE COURT: Thank you. Please be
16 seated.

17 The Court will take a brief recess,
18 Mr. Keahon. And lets see if we can get the new
19 jury up here in five minutes, officer, I don't
20 want everyone mixing in the hallway once more.
21 So once Mr. Keahon has returned, then we will
22 bring the jury up at that time.

23 Court will stand in recess.

24 (Whereupon a short recess was taken.)

25 THE COURT: Is there anything to

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place on the record before we bring in our prospective jurors?

MR. KEAHON: No, there isn't.

THE COURT: Thank you.

My compliments to the prospective jurors, their presence is required.

(Whereupon prospective jurors entering courtroom.)

THE COURT: Thank you very much. We are trying to make sure everyone that can possibly find a seat, find one at this time because there aren't going to be enough.

THE COURT: Good afternoon.

THE SERGEANT: Officer, we can fit one more up here. Thank you.

Counsel and the parties may be seated.

THE CLERK: Case on trial, People versus Whitehead. Prospective jurors, all parties present.

THE COURT: Thank you.

Are the People ready?

MR. PEARL: People ready, Your Honor.

THE COURT: Is the defense ready?

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MR. KEAHON: I am, sir.

THE COURT: Thank you.

Good afternoon, everyone, my name is Judge James Hudson, I am a County Court Judge. I want to welcome you all to your courtroom. I am presiding over the trial. We have been doing jury selection from yesterday to today, the trial each one of you has also been subpoenaed as a prospective juror. I also will remain standing until every prospective juror has a seat. It tends to keep this portion of the trial moving along very quickly.

My first questions are directed to all of you. It is estimated this trial will follow the following schedule. I see all of you have been provided with a schedule.

To repeat, jury selection began yesterday and will finish on the 11th. That is this Monday. The trial itself may last until the 20th of March. As counsel so pointed out, it is the first day of Spring.

A schedule was handed out and there will be no trial once again tomorrow, Friday, the 8th, and on the 15th. Additionally, there

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will be no trial on the 12th, Lincoln's Birthday, and the 18th, President's Day, the Courts are closed on those days, as shown on the schedule.

On some days the trial will run from two o'clock in the afternoon until five o'clock in the afternoon. On other days, however, the trial may commence at eleven o'clock in the morning and run through 12:30 in the afternoon and then once again in the afternoons. We will try to give you a days notice of any changes in the schedule. Although we will always try to end the day at 5 pm, there may be times when we run into the early evening. At deliberations, at the very end of the case, a trial may end later in the evening. However, there will be no sequestration, you will go home at night. If you are to serve on this jury you will be committed to the schedule given.

But jury duty is a sacrifice and obligation. That obligation has some limitations. Based on the extended length of the trial, if you have an emergency situation preventing you from being here, you will be

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excused.

An emergency includes but is not necessarily limited to, a scheduled medical operation, a vacation where you have already purchased airline tickets or travel tickets. Military service. You are the sole proprietor of a business where service here would place you in default of a legal obligation to someone else. Or you are the sole caregiver to a child or incapacitated person, there is literally no one else to take care of that person during trial hours.

Also, you must consider the economic consequences of service. I know you have all done your patriotic duty and appeared in answer to the jury summons. You know how important it is. However, you only know your financial situation, sacrifice. I know you are prepared to do that. If the economic would be so great as far as economic loss to you and your family in a trial of this length, so much so that you could fairly say that you would be preoccupied and unable to give your undivided attention to this jury, to this trial, then you will also be

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excused.

That is the type of situation that would be a valid excuse for jury duty on this occasion.

This is not a long trial by courthouse standards. If you serve on this jury, you will have discharged your obligation, may not be called again for six years.

If you don't wish to serve this time, of course, I will respect your wishes but you do run the risk of being called for a longer trial in the future.

Additionally, if you answer yes to any of the following questions you will also be discharged.

Does anyone here have any hearing problem or any other type of physical challenge or medical difficulty that would prevent him or her from sitting as a juror if selected?

As a juror you would have to sit in the jury box approximately, an hour, an hour and a half between breaks.

Do any of you know of any reason why you would not sit as a fair or impartial juror?

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2 Do any of you know a personal, moral,
3 ethical or other reason not to sit as a juror?

4 In this case it involves the
5 following. It is alleged, note that word, an
6 allegation, nothing has been proven and no proof
7 has yet been submitted and the defendant has
8 been presumed innocent of these charges. It is
9 alleged by going back into September of the year
10 two thousand and four through March of the year
11 2005, the defendant, Lamar Whitehead engaged in
12 a scheme in which he allegedly used the
13 identities of various Suffolk County residents
14 without their permission and assumed those
15 identities to apply for loans and/or credit and
16 thus obtain goods and money and services for
17 himself.

18 At the conclusion of this case you
19 will be asked to consider charges of Scheme to
20 Defraud in the First Degree, Identity Theft in
21 the First Degree, Attempted Identity theft --
22 excuse me. Identity Theft in the Third Degree,
23 and Attempted Grand Larceny in the Second
24 Degree.

25 In order to be selected as a juror

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2 in this case you will have to be able to swear
3 that you can be a fair and impartial juror to
4 both sides in this matter. You would have to be
5 able to give your solemn word, your solemn oath
6 to both sides.

7 So with that in mind, if anyone here
8 has a personal or compelling reason that they
9 can not serve on this jury or if based on what I
10 just described to you about this case you feel
11 that you might not be a fair or impartial juror
12 or feel uncomfortable being a juror in this
13 case, in other words you do not wish to assume
14 the responsibility of sitting as a juror in a
15 criminal case, after hearing the description
16 that I just gave, merely raise your hand and you
17 will be discharged without any further inquiry
18 from this Court.

19 Thank you. If you would follow the
20 officers' instructions. Those remain seated
21 for just a moment and wait for the officers'
22 instructions. Thank you.

23 PROSPECTIVE JUROR: We have a
24 question.

25 COURT OFFICER: Hold on for a minute.

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2 If you raised your hand, you will be
3 going out into the hallway.

4 PROSPECTIVE JUROR: Will this last
5 until the 20th?

6 THE COURT: The 20th.

7 PROSPECTIVE JUROR: Of March?

8 THE COURT: Of March.

9 COURT OFFICER: Just watch your step
10 coming down.

11 (Whereupon prospective jurors leaving
12 courtroom.)

13 PROSPECTIVE JUROR: I go to school at
14 night Monday and Wednesday. Should I leave? I
15 don't know.

16 THE COURT: Remember the questions
17 that I gave. If you are not going to be able to
18 be here.

19 PROSPECTIVE JUROR: Yeah. Okay.

20 COURT OFFICER: Folks in the box, you
21 can take seats in the audience, please.

22 PROSPECTIVE JUROR: (Complying.)

23 THE COURT: All right. If you would
24 swear the entire panel.

25 THE CLERK: Would the entire panel

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2 please stand and raise your right hand.

3 THE COURT: Counsel.

4 THE CLERK: Do each of you solemnly
5 swear to truthfully answer all questions
6 regarding your qualifications to serve as trial
7 jurors on this case, so help you God?

8 PROSPECTIVE JURORS: I do.

9 THE CLERK: Please be seated.

10 THE COURT: Thank you.

11 Thank you all once again.

12 Ladies and gentlemen of the jury
13 panel, as I just indicated, this trial is the
14 case of the People of the State of New York
15 against Mr. Lamar Whitehead. You have been
16 called here as possible jurors for this trial.

17 Before I begin, please let me note
18 the following. Service as a juror is a vital
19 function of citizenship under our American
20 system of justice. As I am sure you are aware,
21 the right to a trial separates our country from
22 many, many less unfortunate countries. That
23 right should be jealously guarded. Besides
24 being a traditional part of our American
25 History, jury service carries a very great and

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2 important responsibility, that is to accord both
3 the defendant and the People, the accused and
4 the accuser, a fair trial.

5 To help ensure this, our first order
6 of business is to conduct an oral examination of
7 you, our prospective jurors.

8 This part of the trial is called Voir
9 Dire. It is a French idiomatic expression
10 translated to speak the truth. Voir Dire is the
11 jury selection process, the method by which some
12 of you will be chosen as jurors and a number of
13 others as alternates.

14 First, however, I would like to
15 explain briefly what the trial will involve and
16 the roles of the Judge and jury. After that I
17 will begin to ask you some individual questions.
18 Please understand that I will be directing my
19 remarks to all prospective jurors.

20 Soon a number of you will be seated
21 in the jury box to my left. I ask all of you to
22 pay close attention to the questions I will ask
23 later because if and when any of you who are
24 seated where you are now or outside the rail as
25 we call it, are called to sit up here in the

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2 jury box, I will need to know your answers to
3 these general questions.

4 Also, if someone has problems hearing
5 my remarks, please let me know and I will be
6 happy to repeat myself.

7 Let me emphasize, everyone who serves
8 on a criminal trial accepts the responsibility
9 that the defendant and the People will have a
10 fair trial.

11 In order to fulfill this
12 responsibility, each juror must be free from any
13 feelings or attitude of prejudice, sympathy or
14 preconceived notions that might interfere with
15 his or her ability to be impartial and
16 therefore, render a fair and just verdict based
17 solely on the evidence in this case.

18 As to the questions, some are
19 designed or asked to reveal such feelings or
20 attitudes both conscious and unconscious.
21 Later, besides my questions you may be
22 questioned by the attorneys. Please don't be
23 offended by any of these questions. I remind
24 you, you were just sworn to tell the truth so
25 you will answer them honestly, as I know you

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2 will, in fairness to yourself and to the parties
3 in this case.

4 As I have indicated, the trial which
5 is about to begin is a criminal action against
6 the defendant, Mr. Lamar Whitehead.

7 I will now refer you to the formal
8 indictment.

9 Count one charges the defendant with
10 Scheme to Defraud in the First Degree,
11 allegedly, committed as follows.

12 The defendant, Lamar Whitehead, on or
13 about and between September of two thousand and
14 four through March of two thousand and five, in
15 Suffolk County, engaged in a scheme constituting
16 a systematic ongoing course of conduct with the
17 intent to defraud more than one person or to
18 obtain property from more than one person by
19 false or fraudulent pretenses, representations
20 or promises and so obtains property with a value
21 in excess of one thousand dollars from one or
22 more such persons, to wit: The defendant, using
23 the identity of various Suffolk County residents
24 obtained or attempted to obtain car loans from
25 the E-Loan Corporation and others in excess of

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one thousand dollars.

Count two charges the defendant with Identity Theft in the First Degree. Which reads as follows.

The Grand Jury of Suffolk County by this indictment accuses the defendant, Lamar Whitehead, of the crime of Identity Theft in the First Degree allegedly committed as follows.

The defendant, Lamar Whitehead, on or about February 15, year two thousand and five, assumed the identity of Maria Marcarle or Marcarle, a Suffolk County resident, by using the personal identifying information of that person, and obtained goods, money, property or services, having a value of more than two thousand dollars.

Count eleven and fifteen also charges the defendant with Scheme to Defraud -- excuse me, with Identity Theft in the First Degree. The difference being the names of the alleged victims and the alleged date of the crimes.

Count three also charges the defendant, Mr. Lamar Whitehead of the crime of Identity Theft in the First Degree under a

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2 different theory, allegedly committed as
3 follows.

4 The defendant, Lamar Whitehead, on or
5 about February 15, year two thousand and five,
6 assumed the identity of Miss Maria Marcarle, a
7 Suffolk County resident, by using the personal
8 identifying information of that person and
9 committed or attempted to commit a class D
10 felony or higher level crime.

11 This is also charged against
12 Mr. Whitehead under count four, seven, eight,
13 nine, twelve, thirteen, fourteen, fifteen,
14 seventeen, eighteen, nineteen, twenty,
15 twenty-one, twenty-two, twenty-three,
16 twenty-four, twenty-five, twenty-six,
17 twenty-seven, twenty-eight, twenty-nine, thirty,
18 thirty-one, thirty-two, thirty-three, and
19 thirty-four of the indictment.

20 Once again, the difference being the
21 names of the alleged victims and the alleged
22 date of the crime.

23 Count five of the indictment before
24 the Court charges the defendant, Mr. Lamar
25 Whitehead, with the crime of Identity Theft in

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2 the Third Degree, allegedly committed as
3 follows.

4 The defendant, Mr. Lamar Whitehead,
5 on or about March 25, the year two thousand and
6 five, assumed the identity of Miss Maria
7 Marcarle, a Suffolk County resident, by using
8 the personal identifying information of that
9 person and obtained goods, money, property or
10 services.

11 The defendant is also charged with
12 Identity Theft in the Third Degree under count
13 six and sixteen of the indictment. Once again,
14 the difference being the names of the alleged
15 victims and alleged date of the crime.

16 Count ten of the indictment before
17 the Court accuses the defendant, Mr. Lamar
18 Whitehead, of the crime of Attempted Grand
19 Larceny in the Second Degree, allegedly
20 committed as follows.

21 The defendant, Mr. Lamar Whitehead,
22 on or about October 14th in the year two
23 thousand and four, within the jurisdiction of
24 Suffolk County, New York, attempted to steal
25 property from Land Rover of Massapequa,

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2 specifically, a motor vehicle with a value that
3 exceeded fifty thousand dollars.

4 These charges are contained in the
5 indictment that I just partially read to you and
6 referred to you.

7 The indictment is only an accusation.
8 An indictment is proof of nothing. You have
9 heard the expression where there is smoke there
10 is fire. An indictment is not even smoke
11 because although smoke may be evidence of a
12 fire, an indictment is not evidence at all and
13 may not be considered as such.

14 The reason for this is that an
15 indictment is nothing more than the legal form
16 by which the State of New York brings to trial
17 the individual it claims has violated the law.

18 The indictment is neither evidence
19 nor proof of the defendant's guilt. Indeed, the
20 defendant is presumed to be innocent and this
21 presumption of innocence continues throughout
22 the trial unless and until a jury having
23 considered all of the evidence, unanimously
24 finds that a defendant is guilty beyond a
25 reasonable doubt of the charges made against

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2 that defendant.

3 Accordingly, the mere fact that there
4 are thirty-four counts or charges in the
5 indictment is of no significance nor may you
6 assign it any significance.

7 This trial is the process by which
8 those of you selected as the jury determine if
9 the State has proved the charges against the
10 defendant by sufficient evidence.

11 In that process those of you who are
12 selected as jurors and I as the Judge perform
13 separate functions. You the jury are the
14 exclusive judges of the facts in this case.

15 During the trial counsel may suggest
16 that you draw certain conclusions but you and
17 you alone evaluate the testimony and exhibits
18 and determine their truthfulness, significance
19 and meaning. You alone decide what truly
20 happened. You alone decide if the evidence
21 establishes the defendant's guilt of the charges
22 beyond a reasonable doubt. Your ultimate
23 decision is the verdict. You may find the
24 defendant either guilty or not guilty of all of
25 the charges or some of the charges.

1 Proceedings

2 The fact that this action is brought
3 in the name of the People of the State of New
4 York or that a public official presents the
5 evidence does not in any way indicate that the
6 public wants a specific verdict.

7 The People of the State are served by
8 whatever verdict the evidence justifies.

9 I as the Judge will make no
10 determination about the defendant's guilt or
11 lack of guilt. My function is to ensure that
12 you reach your verdict in accordance with the
13 law. As part of that function, at the end of
14 the trial, after you have heard all of the
15 evidence, I will instruct you fully on the law
16 that applies in this case. And just as you are
17 the exclusive judges of the facts, I am the
18 exclusive judge of the law. You must by your
19 oath accept the law as I state it to you and
20 apply it to the facts as you find those facts to
21 be.

22 During the trial I may rule on
23 questions concerning the conduct of this trial
24 or what evidence you may see or hear. In making
25 these rulings I also am applying the law. I am

1 Proceedings

2 not evaluating the facts, indicating anything
3 about the defendant's guilt or non-guilt.

4 During the trial the attorneys and I
5 may also hold brief conferences outside of your
6 hearing. These are called side-bar conferences
7 and involve questions of law about which you
8 need not and must not be considered.

9 Now to the reason you are here today,
10 jury selection. As I indicated, during this
11 portion of the trial the jury selection process,
12 the attorneys and I will ask you questions and
13 as I told you earlier, the purpose of these
14 questions is to elicit information concerning
15 your ability to be impartial in this case.

16 Let me also emphasize to you that the
17 purpose of this questioning is not to embarrass
18 you or to discover any personal details of your
19 lives. The purpose is simply to determine
20 whether or not you are qualified to sit as a
21 juror in this particular case. I advise you
22 that if there is anything you are asked by me or
23 the attorneys which would be embarrassing or
24 uncomfortable for you to answer, merely ask to
25 answer that question or questions privately and

1 Proceedings

2 you will be invited to the side-bar to speak
3 with counsel and myself, excuse me, or into the
4 jury room itself.

5 I also ask you please do not take
6 offense of any of the questions you are asked.
7 They are essential to ensure that the People and
8 defendant receive a fair trial.

9 I also must advise you that in every
10 jury trial a number of prospective jurors are
11 always excused. I can tell you now before
12 knowing anything about any of you, that a number
13 of you will not be selected. That is common.
14 Some of you will not be selected as jurors
15 because counsel for the prosecution and the
16 defense have the right to challenge prospective
17 jurors for what the law refers to as cause.
18 That is as a matter of law you should not sit in
19 this particular jury. They also have a right to
20 excuse a certain amount of jurors, what is
21 called a peremptory reason, a challenge for
22 which no reason be assigned.

23 Do not be upset if you are challenged
24 or excused either for cause or peremptorily. A
25 challenge is no reflection on you as a person or

1 Proceedings

2 on your intelligence, capacity to serve as a
3 juror, merely reflects the opinion of one of the
4 parties, which that party has a right by law to
5 act upon, that you should not sit on the jury at
6 this time.

7 At this time I will ask Mr. Avitable,
8 our court clerk to select eighteen names, and
9 follow the clerk's directions.

10 Mr. Avitable.

11 THE CLERK: When a juror's name is
12 called, please take all your belongings and have
13 a seat in the jury box at the direction of the
14 officer.

15 Prospective juror number one, Douglas
16 Cowan, C-O-W-A-N.

17 Prospective juror number two, Rosena
18 Williams, W-I-L-L-I-A-M-S.

19 Prospective juror number three,
20 Michael David, D-A-V-I-D.

21 Prospective juror number four, Jason
22 Pedneault, P-E-D-N-E-A-U-L-T.

23 Prospective juror number five,
24 Michael Wright, W-R-I-G-H-T.

25 Prospective juror number six, Ronald

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2 Clarke, C-L-A-R-K-E.

3 Prospective juror number seven, I
4 don't know if it is hyphenated, Baldassarr
5 Arenni.

6 Is that hyphenated?

7 THE COURT: I am sorry if we are
8 mispronouncing your name.

9 PROSPECTIVE JUROR: Baldassarr
10 Arenni. Thank you.

11 THE CLERK: B-A-L-D-A-S-S-A-R-R
12 A-R-E-N-N-I.

13 PROSPECTIVE JUROR: B-A-L-D-A double
14 S, A double R E, R-E-N-N-I-E.

15 THE COURT: Baldassarre Rennie.

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Thank you.

18 THE CLERK: Prospective juror number
19 eight, Michele Hernandez, H-E-R-N-A-N-D-E-Z.

20 Prospective juror number nine, Evona
21 Torsel, T-O-R-S-E-L.

22 Prospective juror number ten,
23 Christian Rogers, R-O-G-E-R-S.

24 Prospective juror number eleven,
25 Kathleen Cleary, C-L-E-A-R-Y.

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2 Prospective juror number twelve,
3 Frank Falabella, F-A-L-A-B-E-L-L-A.

4 Prospective juror number thirteen,
5 Herert Lorick, L-O-R-I-C-K.

6 Prospective juror number fourteen,
7 Joseph Kaceztow, K-A-C-E-T-O-W.

8 Prospective juror number fifteen,
9 Anthony Grecki, G-R-E-C-K-I.

10 Prospective juror number sixteen,
11 Jeannette Quinn, Q-U-I-N-N.

12 Prospective juror number seventeen,
13 Thomas Keaney, K-E-A-N-E-Y.

14 Prospective juror number eighteen,
15 Danny Johnson, J-O-H-N-S-O-N.

16 THE COURT: Thank you.

17 Show that to counsel.

18 THE CLERK: Sure.

19 (Complying).

20 THE COURT: Thank you, Mr. Avitable.

21 And thank you all.

22 I am going to ask you first eighteen
23 people a number of questions that call for a
24 simple yes or no answer. On the other side of
25 the rail you should listen also, you may be

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asked the same questions later.

As to any question, if your answer is no, you may remain silent, I will consider silence a no answer. But if your answer is yes, please be kind to say yes out loud and raise your hand.

If you don't understand it, I will rephrase it.

The defendant is Mr. Lamar Whitehead. Please stand so the prospective jurors can see you.

Mr. Whitehead is represented by Mr. William Keahon.

MR. KEAHON: Good afternoon.

THE COURT: The People are represented by the District Attorney of this County, Mr. Thomas Spota.

Raphael Pearl and Jodi Franzese, Assistant District Attorneys will be presenting the People's case in this trial.

MR. PEARL: Good afternoon.

THE COURT: Members of the panel, does anyone have any serious problem seeing or hearing or understanding English?

1 Proceedings

2 Do any of you know the defendant or
3 any of the attorneys personally, recognize their
4 names?

5 Yes. Baldassarre Rennie.

6 PROSPECTIVE JUROR: I know Mr. Pearl.
7 He prosecuted a case involving my son, and I
8 testified in front of you in this courtroom.

9 THE COURT: All right. If I can see
10 you side-bar for just a moment.

11 PROSPECTIVE JUROR: Oh, sure.

12 (Whereupon the following occurred at
13 side-bar.)

14 PROSPECTIVE JUROR: I am sorry, I
15 couldn't see if that was Mr. Pearl. I haven't
16 seen him in a few years.

17 THE COURT: How is your little --

18 PROSPECTIVE JUROR: He is wonderful.
19 I didn't know if that would automatically
20 exclude me. I have had no contact.

21 THE COURT: Miss Baldassarre was a
22 witness in a case before this Court which
23 Mr. Pearl had prosecuted.

24 Now the -- having been before me
25 testifying as a witness here, the mother of a

1 Proceedings

2 crime victim to.

3 PROSPECTIVE JUROR: Uh-huh.

4 THE COURT: Mr. Pearl was the
5 prosecutor in that case.

6 Would it make you feel uncomfortable
7 as far as this was the very courtroom itself
8 where that took place?

9 PROSPECTIVE JUROR: No, that is okay.

10 I would have approached Judge Hudson
11 or asked the question if it posed a problem for
12 me.

13 THE COURT: Later on we are going to
14 be bringing, might not be today, the reason I am
15 saying that, if you don't feel comfortable being
16 a juror in this case, counsel I know would
17 consent to you being released at this time.

18 PROSPECTIVE JUROR: I mean, if it
19 would have been the same type of case, I would
20 have felt very uncomfortable but time has
21 passed, I really haven't contacted.

22 THE COURT: Then you can take your
23 seat within the potential jurors. When we call
24 people later, we will not have time today,
25 Monday we will be calling people one at a time.

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just promise me, and it is actually just, it is
3 a big promise that what you have suffered
4 through, we discussed last week that it would
5 not color your judgment either for or against
6 the People or for or against Mr. Keahon's
7 client. Do you feel comfortable giving me that
8 assurance?

9

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PROSPECTIVE JUROR: Actually I felt
quite comfortable. It has been two years since
11 I have been in the courtroom. Everybody has
12 moved on. My little guy is fine. He is five.

13

THE COURT: That is important.

14

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Anything else you would like to
discuss privately as far as that goes or any
16 other yes answers?

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PROSPECTIVE JUROR: Oh, to the
questions that were --

19

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THE COURT: Yeah. Do you have any
other questions?

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PROSPECTIVE JUROR: I told you I sat
on the Grand Jury.

23

24

THE COURT: Okay.

All right.

25

MR. KEAHON: Judge.

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2 THE COURT: Any follow-up questions?

3 MR. KEAHON: If I may.

4 I didn't really hear everything that
5 was said up at the bench because I was kind of
6 in the back.

7 PROSPECTIVE JUROR: Sure. Would you
8 like me to repeat it?

9 MR. KEAHON: If you don't mind, sure.

10 PROSPECTIVE JUROR: About, I guess --
11 well, he is five, so -- I have four children.
12 My youngest child, when he was two, was sexually
13 assaulted. At the time Mr. Pearl was the
14 District Attorney that was assigned to the case
15 and I testified in front of Judge Hudson in this
16 particular courtroom. About two years ago.

17 MR. KEAHON: And who was the
18 defendant in the case?

19 PROSPECTIVE JUROR: Um-- a person by
20 the name of Alfred Dayton.

21 MR. KEAHON: And was he a friend of
22 the family or --

23 PROSPECTIVE JUROR: Um -- I owned a
24 storefront at the time and he was somebody that
25 had volunteered in my store. And apparently

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when I guess everything all came about, they were -- I guess another child involved, he was incarcerated.

MR. KEAHON: I am sorry, Ma'am.
Thank you.

THE COURT: Mr. Pearl, any other questions?

PROSPECTIVE JUROR: So I do -- you know, I was quite surprised with all the scenarios that could have happened between CI, Suffolk County, and the timing, I could see Judge Hudson but there was a lot of people standing so I really couldn't see, you know, yourself or Mr. Pearl until I got up in the box. And when I left here I said, of all the scenarios, how would this play out, you know, really, but then I remember Mr. Pearl had said he was changing departments, of that particular department at the time. So, and this is a different type of a case, so.

THE COURT: Uh-huh.

MR. PEARL: Judge, may I ask a few questions?

THE COURT: Yes.

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MR. PEARL: I don't know you, and I actually had a lot of dealings --

PROSPECTIVE JUROR: Yes, we did. This was, uh -- very difficult, and Mr. Pearl was very helpful. Thank God. That is the first time I ever had one of my children involved and hopefully would never again.

MR. PEARL: And he is doing great?

PROSPECTIVE JUROR: Oh, he is great. He is in kindergarten, very sociable. Has no recollection as to anything.

And it was a very difficult time.

MR. PEARL: No, I appreciate that.

PROSPECTIVE JUROR: Was extremely difficult. And you were quite helpful, you know.

MR. PEARL: Well, thank you.

PROSPECTIVE JUROR: Because it is scary for people, you know, when your child --

MR. PEARL: Well, it is every parent's nightmare.

PROSPECTIVE JUROR: When it happened, and you know, it was very difficult. And then you have other forces, you have CPS. You know,

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2 there are a lot of other things and people
3 coming at you and they really don't offer a
4 liaison. The first time I was offered a liaison
5 is when I came to testify in front of the Grand
6 Jury. That was the first time anyone had
7 offered us a liaison.

8 By that time, of course, you know, we
9 needed it at that time but it was difficult and
10 Mr. Pearl was very helpful. He is a very nice
11 person but that is his job. This is his
12 profession.

13 MR. PEARL: Do you think it would be
14 difficult for you to sit and listen to me to
15 make arguments and --

16 PROSPECTIVE JUROR: I haven't thought
17 about you since I left.

18 MR. PEARL: Well, I am glad.

19 PROSPECTIVE JUROR: And split out of
20 this courtroom that day.

21 MR. PEARL: But if I come before you
22 and I make an argument and tell you, well, this
23 is what an interpretation of the evidence looks
24 like, do you think maybe since we had such a
25 good relationship, you would have trouble

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putting that relationship aside?

PROSPECTIVE JUROR: No. I mean, I wouldn't weigh what you said any more than, you know, you did your job at the time. By trade I am a registered nurse, it is a profession. You know, that is what you do for a living. You know. I mean, I haven't-- once we left here that day, we really never really spoke about it ever again. To be quite honest, we just decided it was better to --

MR. KEAHON: I just have a couple of questions, if I could.

PROSPECTIVE JUROR: Sure.

MR. KEAHON: Ma'am.

PROSPECTIVE JUROR: Uh-huh.

MR. KEAHON: You went through a horrible tragic situation with your young child.

PROSPECTIVE JUROR: Yes.

MR. KEAHON: The District Attorney's Office provided a liaison for you to answer questions, to sit with you, to talk with you, they have a room upstairs.

PROSPECTIVE JUROR: Uh-huh.

MR. KEAHON: You spent time up there.

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I am sure you were very appreciative.

PROSPECTIVE JUROR: Who, Mr. Pearl or the other person? I didn't speak to the other person. I said that was the first time I was offered a liaison. I didn't take any. Is that what you mean? That room that they had me sit in.

MR. KEAHON: Yes. As I understand it, the Family Crimes Bureau has certain personnel that are assigned during the trial to answer any questions of the victim or the family. That didn't happen?

PROSPECTIVE JUROR: No, it did not.

MR. PEARL: In essence, I took that position.

PROSPECTIVE JUROR: Yeah.

MR. PEARL: I was the contact.

MR. KEAHON: You put your trust in Mr. Pearl to do his job the way it should be done?

PROSPECTIVE JUROR: Yes, I did.

MR. KEAHON: And you were appreciative of the efforts that he made working on behalf of bringing justice to your young

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child?

PROSPECTIVE JUROR: Of course. This was a pedophile who -- and when everything came out, to my understanding, it was not only my child, there was at least one other child involved.

MR. KEAHON: Sure.

PROSPECTIVE JUROR: So I think, yes, justice was served. This is a person that was perpetrating crimes against small children. Yes.

MR. KEAHON: How many days were you out at court, Ma'am?

PROSPECTIVE JUROR: In this particular court?

MR. KEAHON: Yes.

PROSPECTIVE JUROR: Only one day and it was very brief, and it was very short, yes.

MR. KEAHON: Thank you. I have nothing further.

THE COURT: Can you wait outside for just a moment.

PROSPECTIVE JUROR: Sure. No problem.

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(Complying.)

MR. KEAHON: I am going to challenge her for cause.

MR. PEARL: I wouldn't have an objection. Too close of a relationship. I was basically the entire case, the liaison.

THE COURT: Off the record.

(Whereupon there was a discussion off the record.)

THE COURT: All right. Lets bring her back in.

(Whereupon prospective juror entering.)

THE COURT: Miss Rennie, it is no reflection.

PROSPECTIVE JUROR: No, that is fine. I expected to be dismissed.

THE COURT: You will be discharged with the thanks of the Court.

PROSPECTIVE JUROR: I expected it.

THE COURT: Thank you for your patriotism.

PROSPECTIVE JUROR: I didn't think for one moment that you were being -- that I was --

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THE COURT: It is a matter of not wanting to risk memories coming back.

PROSPECTIVE JUROR: That is fine.

THE COURT: It is just something --

PROSPECTIVE JUROR: Yeah. I come out and do work when they tell me to.

MR. PEARL: Thank you. Glad to hear about your son.

(Whereupon prospective juror leaving.)

(Whereupon prospective juror entering.)

THE COURT: Hello, there, Miss Hernandez, you have been very patient. Have a seat.

PROSPECTIVE JUROR: Thank you.

(Complying.)

THE COURT: This is Miss Hernandez, juror number eight.

Miss Hernandez, I always ask the last question first, which is, based upon everything you have heard so far, do you feel comfortable promising both sides you can be fair and impartial to the defendant and the People in

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this case?

PROSPECTIVE JUROR: Absolutely.

THE COURT: You had a yes answer to one or more of my questions or anything you wanted to discuss privately?

PROSPECTIVE JUROR: My brother was a victim of an identity theft. That is all I know. I don't know the details.

THE COURT: You don't know any details as far as was anyone apprehended?

PROSPECTIVE JUROR: I have no idea. My mom told me. Sorry.

THE COURT: Do you feel that you would be able to put that out of your mind and judge this case only on the evidence you hear in this court?

PROSPECTIVE JUROR: Absolutely.

THE COURT: So in other words, so that Mr. Whitehead doesn't have to worry about when you are in this jury room deliberating with the other jurors, that this can pop into your head?

PROSPECTIVE JUROR: Absolutely.

THE COURT: And the other jurors can

1 Proceedings

2 be held to this proof and not anything that
3 happened to any family member?

4 PROSPECTIVE JUROR: Absolutely.

5 THE COURT: Anything else you wanted
6 to discuss privately?

7 PROSPECTIVE JUROR: Um-- I don't
8 know.

9 THE COURT: It is the kind of thing
10 it is not like once you go out, that is the last
11 opportunity. If it pops into your head, just
12 raise your hand and we can always come back
13 here.

14 PROSPECTIVE JUROR: Okay.

15 THE COURT: Anything else?

16 PROSPECTIVE JUROR: No.

17 THE COURT: If there is any follow-up
18 questions on the matter of Miss Hernandez'
19 brother, I prefer them remain in this room
20 rather than the courtroom, family being alleged
21 of a crime.

22 MR. PEARL: Was your brother a
23 Suffolk County resident at the time of the
24 identity theft, was it?

25 PROSPECTIVE JUROR: Suffolk County,

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Massachusetts, not Suffolk County, New York.

THE COURT: The other Suffolk County.

PROSPECTIVE JUROR: Typically, yes
but no.

MR. PEARL: Have you ever spoken to
him about that?

PROSPECTIVE JUROR: No. His
financials are private. He doesn't discuss them
with anybody.

THE COURT: Mr. Keahon.

MR. KEAHON: Yes.

How are you, Miss Hernandez?

PROSPECTIVE JUROR: Good. How are
you?

MR. KEAHON: I am fine. My name is
Bill Keahon.

PROSPECTIVE JUROR: Nice to meet you
too.

MR. KEAHON: When did you first learn
your brother was a victim of identity theft?

PROSPECTIVE JUROR: Five years ago.

MR. KEAHON: And no information since
that time?

PROSPECTIVE JUROR: Just that he was

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struck again two years later.

MR. KEAHON: The same person?

PROSPECTIVE JUROR: I don't know.

Just his identity. It happened again but that is all I know. They didn't want to --

MR. KEAHON: Do you think -- we are asking you to sit on a case involving multiple counts of identity theft. Would that impact you in any way, what occurred to your brother?

PROSPECTIVE JUROR: No because it

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has nothing to do with this. Completely --

MR. KEAHON: Would you sit there thinking, well, maybe Mr. Whitehead did it to my brother?

PROSPECTIVE JUROR: No.

MR. KEAHON: You don't think Mr. Whitehead did that?

PROSPECTIVE JUROR: No.

MR. KEAHON: Thank you.

THE COURT: Thank you.

You can take your seat with the other potential jurors.

Like I said, if you think of anything, just raise your hand.

PROSPECTIVE JUROR: Thank you.

THE COURT: Thank you very much.

(Whereupon prospective juror leaving.)

(Whereupon prospective juror entering.)

THE COURT: Miss Torsel, you have been very patient. Am I pronouncing your name correctly?

PROSPECTIVE JUROR: Yes.

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2 THE COURT: Have a seat.

3 PROSPECTIVE JUROR: (Complying.)

4 THE COURT: Miss Torsel, I always ask
5 the last question first, which is, based upon
6 what you heard so far, would you be able to
7 promise both sides that you could be a fair and
8 impartial juror for me in this case?

9 PROSPECTIVE JUROR: Well, that is my
10 problem. When you mentioned that it was
11 identity theft, then there was this movie I saw
12 on Lifetime and it was a true story, and it was
13 about the identity theft, and that -- just what
14 comes to my mind, everything.

15 THE COURT: That would effect your
16 judgment?

17 PROSPECTIVE JUROR: I think so.

18 THE COURT: Okay.

19 Any questions or consent?

20 MR. KEAHON: I consent.

21 MR. PEARL: I consent.

22 THE COURT: All right. I appreciate
23 your candor, Miss Torsel, you will be discharged
24 from this case. Thank you very much for
25 bringing it to the Court's attention.

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PROSPECTIVE JUROR: Thank you. And I
am sorry.

THE COURT: No no. You will receive
full credit as if you sat on this case. Thank
you.

(Whereupon prospective juror
leaving.)

(Whereupon prospective juror
entering.)

THE COURT: Mr. Falabella, am I
pronouncing it correctly?

PROSPECTIVE JUROR: Yes.

THE COURT: Please have a seat.

PROSPECTIVE JUROR: (Complying.)

THE COURT: Mr. Falabella, I always
ask the ultimate question before any specific
questions, which is, based upon what you heard
so far, a brief description of the case, would
you feel comfortable promising both sides you
would be fair and impartial for me on this case?

PROSPECTIVE JUROR: I don't know if I
can focus on it because Friday I was okay, I had
my business, I have a business I run myself and
I had it sold. It was supposed to be done the

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2 middle of this month. I found out it was going
3 to be next month. And also -- it is a cell
4 phone repair business. I am not sure but I
5 think the defendant was in my store at one time
6 to have his cell phone fixed. He just looks --
7 you know, today I looked at him, I think he
8 might have been in my store.

9 THE COURT: And it also sounds like
10 you will be preoccupied with your own business
11 right now.

12 PROSPECTIVE JUROR: Well, it wasn't
13 the case, I was selling it. I wouldn't be
14 preoccupied but now it is going to be another
15 month.

16 THE COURT: Any follow-up questions?

17 MR. KEAHON: No.

18 THE COURT: Consent?

19 MR. PEARL: Yes, Your Honor.

20 MR. KEAHON: Yes.

21 THE COURT: You are going to be
22 discharged with the thanks of the Court. I
23 appreciate your sacrifice so far and thank you.
24 Sorry to take up your time. Good luck with your
25 business.

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PROSPECTIVE JUROR: Okay.

(Whereupon prospective juror
leaving.)

(Whereupon prospective juror
entering.)

THE COURT: Hello there.

PROSPECTIVE JUROR: Good afternoon.

THE COURT: Good afternoon, sir.

PROSPECTIVE JUROR: Anthony Grecki.

THE COURT: Mr. Grecki, please have a
seat. You were so patient these past few days.

PROSPECTIVE JUROR: No problem.

THE COURT: I always ask the ultimate
question first, which is, based upon what you
have heard, my brief description of the case,
would you feel comfortable promising both sides
you will be fair and impartial in the case?

PROSPECTIVE JUROR: Yes.

THE COURT: You had one or more
questions you wished to discuss privately?

PROSPECTIVE JUROR: I had two things
against me. One when I was seventeen, an
assault charge that was dropped to an ACOD, that
was twenty-seven years ago. And fifteen years

1 Proceedings

2 ago I had a DWI, that was felony.

3 THE COURT: Do you think you were
4 treated fairly by the justice system?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Did it give you any
7 negative feelings towards the police or District
8 Attorney's Office or defense attorneys, that you
9 feel might color your judgment as far as either
10 reviewing of the People's case or as you see
11 Mr. Keahon and his client?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Let me ask, was it
14 resolved by trial or by a mutually agreeable
15 plea?

16 PROSPECTIVE JUROR: For?

17 THE COURT: For the DWI.

18 PROSPECTIVE JUROR: The DWI, it was
19 mutual, plea.

20 THE COURT: Okay.

21 Do you have difficulty -- we are
22 exercising a trial at this point in time, you
23 can assure the Court you will not hold that
24 against Mr. Keahon's client?

25 PROSPECTIVE JUROR: Yes.

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THE COURT: Anything else you had a
yes answer t?

PROSPECTIVE JUROR: No.

THE COURT: All right.

Any follow-up questions I would like
it to remain in this room. Beginning with the
People.

MR. PEARL: Do you have any
questions?

MS. FRANZESE: No.

MR. PEARL: Thank you.

THE COURT: Mr. Keahon, any follow-up
questions?

MR. KEAHON: No, thanks.

THE COURT: Then Mr. Grecki, you can
take your seat with the potential jurors. Thank
you very much again.

(Whereupon prospective juror
leaving.)

THE COURT: Off the record.

(Whereupon there was a discussion off
the record.)

COURT OFFICER: That is it for now.
Do you want juror number two?

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THE COURT: We want juror number two, please.

(Whereupon prospective juror entering.)

THE COURT: Miss Williams, sorry to bring you back again.

Please have a seat.

PROSPECTIVE JUROR: Thank you.

(Complying.)

THE COURT: We just had a follow-up question outside of the presence of the jury regarding the detective who is friends with your family. That is detective --

PROSPECTIVE JUROR: Tom Gabriele.

THE COURT: Tom Gabriele.

THE COURT: Again, how is he friends with your father or uncle?

PROSPECTIVE JUROR: He um -- he is friends with my mom. We met at church and so we see each other regularly. I am aware of the work that he does with identity theft and I do respect him a lot as a person. And he has given several talks which he does in depth for research. So I would have to say that his-- I

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definitely think he is very credible.

THE COURT: Okay. And that is the question. Is that everyone who is charged with a crime has the right to an even playing field.

PROSPECTIVE JUROR: Sure.

THE COURT: And every witness who comes in has a blank canvas.

Do you feel that because you know Detective Gabriele before today through your family, when you said you think he is very credible, that you have given him a bit of a home -- like a home field advantage so to speak, when it comes to that?

PROSPECTIVE JUROR: Perhaps but I would think everyone in his situation would be just as credible because of the line of work that they do.

THE COURT: You heard my instructions about police officer testimony, that a police officer takes the same oath as another witness and just by virtue of their occupation they're not entitled to more or less credibility than anyone else.

In other words, you have to look at

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them as a witness, ask them the same questions,
3 analyze the witness's testimony and then make
4 that decision.

5

Could you do that or would you tend
6 to credit a police officer's testimony more?

7

PROSPECTIVE JUROR: I would be able to
8 do that but I have to say not only him do I know
9 but my uncle was retired from the NYPD but then
10 again, my grandfather was a Supreme Court
11 Justice and he always said you give anyone
12 equal --

13

THE COURT: Who is your grandfather?

14

PROSPECTIVE JUROR: He is deceased
15 now but he was in Jamaica.

16

THE COURT: May I ask?

17

PROSPECTIVE JUROR: William Goshio.

18

THE COURT: Was he on the Appellate
19 Division?

20

PROSPECTIVE JUROR: I am not exactly
21 sure.

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THE COURT: I digress my apologies.

23

Everyone, follow-up questions.

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Beginning with the People.

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MR. PEARL: No, thank you.

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MR. KEAHON: Yes.

How are you?

PROSPECTIVE JUROR: Good.

MR. KEAHON: My name is Bill Keahon.
Nice to meet you.

PROSPECTIVE JUROR: Nice to meet you.

MR. KEAHON: Detective Gabriele is a
friend of your mothers?

PROSPECTIVE JUROR: Yes.

MR. KEAHON: He attends church with
you?

PROSPECTIVE JUROR: Yes.

MR. KEAHON: He speaks at church?

PROSPECTIVE JUROR: He does.

MR. KEAHON: You -- how long have you
known him?

PROSPECTIVE JUROR: For, I would say
probably around five years.

MR. KEAHON: And you respect him a
great deal?

PROSPECTIVE JUROR: I do.

MR. KEAHON: And you respect anyone
else that holds his position?

PROSPECTIVE JUROR: I do.

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MR. KEAHON: You give him a lot of
credibility.

Do you think that he could take the
witness stand, swear to tell the truth, and lie?

PROSPECTIVE JUROR: No.

MR. KEAHON: Thank you very much.

THE COURT: Miss Williams, if you can
wait outside for just a moment.

PROSPECTIVE JUROR: Sure. Thank you.

THE COURT: We will call you right
back in.

PROSPECTIVE JUROR: (Complying.)

MR. KEAHON: I would challenge for
cause.

MR. PEARL: No objection.

THE COURT: Okay. That is consent.
Can we call her back in.

(Whereupon prospective juror
entering.)

THE COURT: Hello, Miss Williams, you
are going to be discharged with the thanks of
the Court. I think counsel wishing you too.

Thank you for your time.

PROSPECTIVE JUROR: Thank you.

1 Proceedings

2 MR. KEAHON: Don't tell anybody but I
3 happen to agree with you about Detective
4 Gabriele.

5 PROSPECTIVE JUROR: Thank you. Bye
6 bye.

7 MR. KEAHON: That was off the record.

8 THE COURT: All right. We have to
9 fill some seats.

10 THE CLERK: Prospective juror number
11 one is Judith Miller.

12 Bring her right back here?

13 THE COURT: How many do we have left,
14 about?

15 THE CLERK: Nineteen.

16 MR. KEAHON: We got plenty.

17 THE CLERK: No answer?

18 COURT OFFICER: No answer.

19 THE CLERK: No appearance.

20 COURT OFFICER: Unless she went to
21 the bathroom.

22 THE CLERK: Patricia Austin.

23 Prospective juror one, Patricia
24 Austin, A-U-S-T-I-N.

25 (Whereupon prospective juror

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entering.)

THE COURT: Hello, Miss Austin.

PROSPECTIVE JUROR: Hi, how are you?

THE COURT: Please have a seat.

PROSPECTIVE JUROR: (Complying.)

THE COURT: Miss Austin, the reason that we detoured you on your way out to the, you're taking your seat with the other potential jurors is because you heard the description of the case. You also heard some of the questions.

PROSPECTIVE JUROR: Right.

THE COURT: Before I give you the shorthand refresher questions, I will cut to the ultimate one, based on what you heard so far as far as a thumbnail sketch of this case, you think you could promise me you would be fair and impartial both to the People and defendant in this case?

PROSPECTIVE JUROR: I would think so.

THE COURT: Do you feel comfortable giving me your word as to that?

PROSPECTIVE JUROR: Sure.

THE COURT: We will go over the refresher questions which are a little shorter.

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By now you are a veteran of the jury selection process.

Do you recognize any of the names that I had mentioned?

PROSPECTIVE JUROR: No, I didn't.

THE COURT: Do you recognize counsel for the defense or People or Mr. Whitehead?

PROSPECTIVE JUROR: No, I do not.

THE COURT: Have you or anyone close to you had a conflict with the law aside from a minor vehicle and traffic infraction?

PROSPECTIVE JUROR: My son had a DWI.

THE COURT: About how long ago was this?

PROSPECTIVE JUROR: About four years ago.

THE COURT: Do you feel he was treated fairly by the system?

PROSPECTIVE JUROR: Not the police.

THE COURT: Do you feel that that gives you negative feelings, as a result, if a police officer takes the stand, that you would give their testimony more or less weight by the

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nature of their occupation?

PROSPECTIVE JUROR: No.

THE COURT: You heard what I said as far as police officer testimony?

PROSPECTIVE JUROR: Yes.

THE COURT: Would you be able to follow that instruction?

PROSPECTIVE JUROR: I think so.

THE COURT: Have you heard about this case at all?

PROSPECTIVE JUROR: No.

THE COURT: You or anyone close to you work in law enforcement now or in the past?

PROSPECTIVE JUROR: Yes. My brother's a retired New York City Detective and my nephew.

MR. KEAHON: Was that your brother, Ma'am?

PROSPECTIVE JUROR: Yes. And nephew's a New York City Detective. And my other nephew's a Federal Judgeship. I am very impressed.

THE COURT: Who is it?

PROSPECTIVE JUROR: His name is

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William Powell. He is in West Virginia but he is up for a Federal Judgeship.

THE COURT: Good luck to you.

PROSPECTIVE JUROR: Very proud of him.

THE COURT: You should be.

And that answer -- well, you or someone close to you work in a law office? I take it Judge Powell.

PROSPECTIVE JUROR: Yes. Yes.

THE COURT: You or anyone close to you been the victim of a crime, in particular identity theft?

PROSPECTIVE JUROR: No.

THE COURT: You or anyone close to you, other than what happened with your son, accused of a crime?

PROSPECTIVE JUROR: No.

THE COURT: Do you have any prior Grand Jury or Trial Jury experience?

PROSPECTIVE JUROR: I was on a civil case about eight years ago.

THE COURT: Without telling me the ultimate verdict that you did have, would be -- did you reach a verdict or was it settled?

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PROSPECTIVE JUROR: No. We reached a verdict.

THE COURT: Were you in the Armed Services, by any chance?

PROSPECTIVE JUROR: No.

THE COURT: Do you feel you have any sympathies, biases that would prevent you from being a fair or impartial juror in this case, otherwise unable to keep an open mind?

PROSPECTIVE JUROR: No.

THE COURT: Anything you would like to discuss privately?

PROSPECTIVE JUROR: That is about it.

THE COURT: Any follow-up questions with what happened to Miss Austin's son a few years ago I would like to remain in this room. I will begin with the People.

MR. PEARL: What was unfair about the police?

PROSPECTIVE JUROR: I felt -- he was drunk, he was wrong and he drove into a pole. And when they asked him if he needed to see a medical, he said, obnoxious as he was, he said no. And then they threw him in jail without

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2 really looking too close. And when he wound up
3 in front of the Judge the next day, he had a
4 broken nose and seventeen stitches in his head.

5 So I feel they could have looked a
6 little closer. He didn't really know whether he
7 needed a doctor but he needed a doctor. Other
8 than that, I don't think he was wrongfully
9 accused or punished. I just thought they could
10 have been a little bit more --

11 MR. PEARL: Attentive to his medical
12 needs?

13 PROSPECTIVE JUROR: Yes.

14 Other than that --

15 MR. PEARL: How was that case
16 resolved?

17 PROSPECTIVE JUROR: He was put on
18 Probation for three years and had his license
19 pulled for three years.

20 MR. PEARL: How old was he when he
21 committed that?

22 PROSPECTIVE JUROR: Twenty-three.

23 MR. PEARL: Do you think that the
24 District Attorney's Office handled it
25 inappropriate, too hard a position?

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Proceedings

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PROSPECTIVE JUROR: No, not at all.

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I don't think they -- like I said, the only
problem I had, I wished they just checked to
make sure that he was okay. That that is about
it. No, the way it was handled was fine.

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MR. PEARL: Thank you.

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THE COURT: Mr. Keahon.

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MR. KEAHON: I have nothing. Thank
you.

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THE COURT: Miss Austin, you can take
your seat with the other potential jurors.
Thank you so much.

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PROSPECTIVE JUROR: Thank you.

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THE COURT: You're welcome.

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PROSPECTIVE JUROR: (Complying.)

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THE CLERK: Prospective juror number
two, James Kaufold, K-A-U-F-O-L-D.

19

MR. KEAHON: K-A-U-F --

20

THE CLERK: O-L-D.

21

MR. PEARL: What was the first name?

22

THE CLERK: James.

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(Whereupon prospective juror
entering.)

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THE COURT: Hello, Mr. Kaufold. Am I

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pronouncing your name correctly?

PROSPECTIVE JUROR: Yeah. Kaufold.

THE COURT: Mr. Kaufold, before you take a seat with the potential jurors, I have a detour here so I can ask you those questions, bring you up to speed but I always ask you the ultimate question first.

Based upon what you have heard, do you feel comfortable promising both sides you can be a fair and impartial juror for me in this case?

PROSPECTIVE JUROR: Yes.

THE COURT: All right.

Now since you are a jury veteran, right now you have been able to hear the other questions posed to the other jurors. I can give you the questions in a slightly more abbreviated form.

Are you familiar with, recognize any of the names that I mentioned before or recognize the names of counsel, either for the People or defense?

PROSPECTIVE JUROR: No.

THE COURT: Recognize Mr. Whitehead?

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PROSPECTIVE JUROR: No.

THE COURT: Have you or anyone close to you had a conflict with the law aside from a Vehicle and Traffic Law infraction?

PROSPECTIVE JUROR: No.

THE COURT: Have you or anyone close to you been accused of a crime or been the victim of a crime, in particular, identity theft or allegations involving the theft of a person's identity?

PROSPECTIVE JUROR: No.

THE COURT: All right.

Have you been in the Armed Forces?

PROSPECTIVE JUROR: No.

THE COURT: I apologize if I asked you this before. Have you heard about the case before?

PROSPECTIVE JUROR: No.

THE COURT: Anyone close to you work in law enforcement now or in the past?

PROSPECTIVE JUROR: Yes. My brother's a police officer.

THE COURT: Okay. You heard my admonition or instructions on the law regarding

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2 police officer testimony, that they take the
3 same oath as other witnesses and by virtue of
4 their occupation entitled to no more or less
5 credibility than any other witness. You are to
6 observe them and judge their testimony as you
7 would any other witness.

8 Would you be able to follow my
9 instruction?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: You or anyone close to
12 you work in a law office now or in the past?

13 PROSPECTIVE JUROR: My cousin's a
14 lawyer.

15 THE COURT: Okay.

16 You are close with your cousin?

17 PROSPECTIVE JUROR: No, not really. I
18 know he is a lawyer, I am not sure exactly what
19 kind of lawyer.

20 THE COURT: Any prior Grand Jury or
21 Trial Jury experience?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Do you feel that you have
24 any sympathies or biases based on prior
25 experience that would prevent you from being a

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fair and impartial juror, otherwise unable to
keep an open mind?

PROSPECTIVE JUROR: No.

THE COURT: Is there anything you
would like to discuss privately?

PROSPECTIVE JUROR: No.

THE COURT: Then you can take your
seat with the other prospective jurors.

MR. KEAHON: I have a question.

Your brother's with the police force
where?

PROSPECTIVE JUROR: Suffolk County,
4th Precinct.

MR. KEAHON: I am sorry?

THE COURT: The 4th Precinct.

MR. KEAHON: I do have some questions
then.

THE COURT: Do you mind discussing
them in open court or would you like to discuss
them here?

PROSPECTIVE JUROR: I can do it now.

THE COURT: Okay. Feel free.

MR. KEAHON: You have heard a list of
detective names and police officers, James, that